21 17. (New) The method according to claim 16, wherein the thermal bandwidth is within a frequency range of 1 - 20 Hz.--

## REMARKS

Claims 1-4, 7-9 and 15 have been amended. New claims 16-17 have been added, and claim 10 has been canceled. Claims 1-9, and 11-17 are pending in the application.

The Examiner's rejections under 35 U.S.C. §112, second paragraph, have been noted. Applicant's amendments to the claims are believed to overcome these rejections. Reconsideration and withdrawal of the rejection is respectfully requested.

The Examiner has rejected claims 1-15 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No 5,558,671 to *Yates*. Applicant requests reconsideration of this rejection in view of the foregoing amendments and the following remarks. Applicant believes the Examiner has mistakenly analogized applicant's multiple oscillation of the load impedance for controlling the generator to the varying of the generator output based on tissue impedance measurements, as disclosed by *Yates*.

The Examiner has cited *Yates* at Col. 9, lines 13-38 and Col. 6, lines 22-29 in an effort to show applicant's claimed feature of a controller for, *inter alia*, inducing multiple oscillations of the electrical impedance. Applicant respectfully disagrees with the Examiner's application of *Yates* in this regard. *Yates* at Col. 9, lines 13-38 discloses a

control device for controlling the generator energy output based on the load impedance and a specific system load curve. *Yates* continues at Col. 9 lines 39 *et seq.*, to explain that the load curve is specific to the instrument, generator and procedure being performed. The method of *Yates* does not disclose or suggest the ability to induce oscillations in the load impedance levels to control the output power of the generator. Reconsideration and withdrawal of the rejection is respectfully requested.

Applicant's claimed invention does not utilize a system load curve, and therefore is not anticipated by *Yates*. The concept of varying the tissue (load) impedance for controlling the output of the generator is clearly not disclosed or suggested by *Yates*.

Applicant's amended claim 1 clearly recites the multiple oscillation of the load impedance for controlling the output of the generator. This feature of applicant's claimed invention is not disclosed or suggested by *Yates*. Applicant's claim 8 discloses the cyclic raising and lowering of the output power to cause a cyclic rise and fall of the variable impedance. The adjustment of the output power according to *Yates* does not cause this cyclic rise and fall of the impedance level, and therefore cannot anticipate the same.

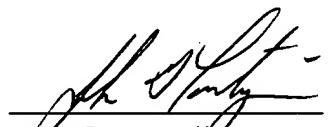
Applicant has amended claim 9 to include the frequency range of 1-20 Hz previously claimed in claim 10. *Yates*, at Col. 6, line 18-19 discloses an operating frequency of 300 Khz to 3 MHz which clearly teaches away applicant's claimed invention.

With respect to claim 2, and 15 the Examiner has stated "it is inherent that the multiple oscillations of the impedance would occur at a frequency range that coagulation is accomplished." Amended claim 15 recites the inducing of multiple oscillations of the impedance to control the RMS value of the generator. Applicant directs the Examiner to page 5, lines 15-22 of applicant's disclosure where applicant clearly distinguishes coagulation frequency ranges from that of power cycling frequency range of the claimed invention. Reconsideration and withdrawal of the rejection is respectfully requested.

In view of the foregoing, applicant believes the claims of this application are in condition for allowance. Early and favorable reconsideration of the present application and allowance of all pending claims are respectfully requested.

Should the Examiner believe that a telephone or personal interview may facilitate resolution of any remaining matters, it is requested that the Examiner contact applicant's undersigned attorney.

Respectfully submitted,



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